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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,585	10/23/2003	Jean-Paul Steib	64449.US	5972
408 7590 06/23/2009 LUEDEKA, NEELY & GRAHAM, P.C. P O BOX 1871 KNOXVILLE, TN 37901				
EXAMINER RAMANA, ANURADHA				
ART UNIT		PAPER NUMBER		
3775				
MAIL DATE		DELIVERY MODE		
06/23/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/690,585

**Applicant(s)**

STEIB ET AL.

**Examiner**

Anu Ramana

**Art Unit**

3775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5, 6, 8 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) 5, 6, 8 and 10-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Viart et al. (WO00/16710) in view of Rokegem et al. (US 5,630,817).

Viart et al. disclose an anchoring device including: a connecting rod 1; first and second pedicular hooks 12; a cylindrical transverse rod 6; first and second securement means (13, 18) provided in each hook to hold the transverse rod 6 connecting the pedicular hooks; and a prolongation provided in a pedicular hook wherein the prolongation includes a U-shape opening including a screw-threaded bore 14 coating with a second pressure screw 17 for blocking the transverse rod (Figs. 4, 7 and 16, col. 4, lines 5-67, and col. 5, lines 1-39).

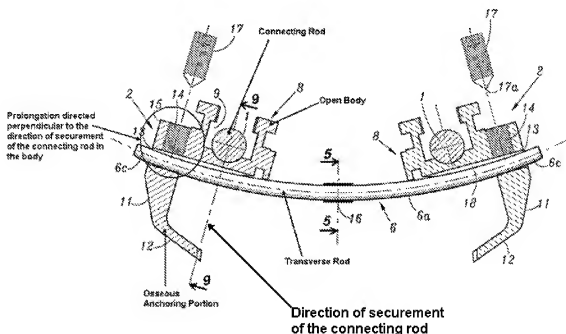
Viart et al. disclose all elements of the claimed invention except for explicitly disclosing a clip for holding the connecting rod in a pedicular hook. However, Viart et al. disclose that the U-shaped cross section 8 holding the connecting rod 1 could be configured in accordance with any one of the alternatives described in French Application FR 9213868.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made, to have provided a clip 22 with a screw threaded bore 233 coating with a first pressure screw 23, as suggested by French application 9213868 (see Fig. 2 and col. 3, lines 30-59 of US 5,630,817), to secure the connecting rod in the U-shaped recess of a Viart et al. pedicular hook, since there are a finite number of identified, predictable potential solutions, and one of ordinary skill in the art could have pursued the known options within his or her technical grasp with a reasonable expectation of success.

### ***Response to Arguments***

Applicant's arguments with respect to claim 14 have been fully considered but are not persuasive for the following reason.

Applicant's invention is rendered obvious by the combination of Viart et al. and Rokegem et al. Viart et al. clearly discloses the pedicular hook to have a prolongation directed perpendicular to the direction of securement of the connecting rod in the open body. See marked up figure from Viart et al. below.



Viart et al. clearly disclose all elements of applicant's invention and also suggest that the U-shaped cross section could be configured in accordance with any one of the alternatives suggested in French application FR 9213868.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the open body of the first pedicular hook to receive a clip, as taught by FR 9213868 (or US 5,630,817), since there are a finite number of identified, predictable potential solutions, and one of ordinary skill in the

art could have pursued the known options within his or her technical grasp with a reasonable expectation of success.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (571) 272-4718. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached at (571) 272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR  
June 20, 2009

/Anu Ramana/  
Primary Examiner, Art Unit 3775